

Message Text

CONFIDENTIAL

PAGE 01 GENEVA 02308 161105 Z

11

ACTION L-03

INFO OCT-01 IO-12 ADP-00 CIAE-00 DODE-00 PM-09 H-02 INR-10

NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SS-15 USIA-12

AF-10 ARA-11 EA-11 EUR-25 NEA-10 ACDA-19 SAJ-01 RSR-01

/167 W

----- 076892

P R 160920 Z MAY 73

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 9343

INFO USMISSION USUN NY

C O N F I D E N T I A L GENEVA 2308

E. O. 11652: GDS

TAGS: UN PFOR

SUBJECT: DEFINITION OF AGGRESSION COMMITTEE: PRIORITY AND
INTENT

REF: (A) STATE 92306; (B) GENEVA 2285

1. DELEGATION REGRETS CONFUSION DUE TO EXISTENCE TWO GUYANESE PROPOSALS REPORTED GENEVA 2259 AND 2274. IT WAS TO LATTER THAT WE REFERRED IN REF B REQUESTING DEPARTMENT' S URGENT COMMENTS.

2. FOR DEPT' S CONVENIENCE WE REPEAT SECOND GUYANESE PROPOSAL:
QUOTE THE FIRST DELIBERATE USE OF ARMED FORCE IN CONTRAVENTION OF THE UNITED NATIONS CHARTER SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF AN ACT OF AGGRESSION PROVIDED THAT THE SECURITY COUNCIL MAY MAKE A CONTRARY CONCLUSIVE FINDING AFTER CONSIDERING THE SURROUNDING CIRCUMSTANCES IN CONFORMITY WITH ITS POWERS AND OBLIGATION UNDER CHAPTER VII OF THE CHARTER. UNQUOTE.

3. AS REPORTED GENEVA 2274, WE MADE INFORMAL SUGGESTION THAT LAST PART OF SENTENCE WOULD READ AS FOLLOWS: QUOTE PROVIDED, HOWEVER, THAT THE SECURITY COUNCIL MAY, IN CONFORMITY WITH ITS POWERS AND OBLIGATIONS UNDER CHAPTER VII OF THE CHARTER,
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 GENEVA 02308 161105 Z

CONCLUDE THAT A DETERMINATION TO THAT EFFECT WOULD NOT BE JUSTIFIED IN LIGHT OF OTHER RELEVANT CIRCUMSTANCES, INCLUDING ANY EVIDENCE OF THE PURPOSES OF THE STATES INVOLVED AND THE NATURE OF THE ACTS COMMITTED. UNQUOTE.

4. WE BELIEVE GUYANESE FORMULATION WOULD RENDER PRIORITY CONCEPT TOTALLY INNOCUOUS BY APPLYING IT ONLY TO FIRST USES " IN CONTRAVENTION OF CHARTER," THUS LEAVING UNAFFECTED THE BASIC ISSUE AS TO WHETHER A PARTICULAR USE OF FORCE CONSTITUTES CHARTER VIOLATION, AND BY EMPLOYING " PRIMA FACIE EVIDENCE" CONCEPT EVEN IN CONSIDERING WHETHER A USE OF FORCE IN VIOLATION OF CHARTER CONSTITUTES AGGRESSION. WHILE THIS APPROACH A LITTLE PECULIAR IN THIS CONTEXT, WE THINK PUTTING THE PRINCIPLE IN TERMS OF " EVIDENCE" RATHER THAN PRESUMPTIONS OR CONCLUSIONS IS GOOD WAY OF AVOIDING OUR PROBLEMS WITH THESE CONCEPTS. WE ALSO NOTE THAT OUR CHANGES TO GUYANA TEXT WOULD MAKE IT CLEAR SECURITY COUNCIL NOT REQUIRED TO DETERMINE EITHER WAY BUT, IN LIGHT OF CIRCUMSTANCES, MAY CONCLUDE NO DETERMINATION " JUSTIFIED."

5. DELEGATION WOULD ALSO LIKE TO NOTE THAT, WITH ADVENT OF THIS PROPOSAL AND ITS APPARENT ACCEPTABILITY TO MANY DELS, WE MAY BE IN EXTREMELY GOOD POSITION TO CONVERT THE ENTIRE EXERCISE INTO THE INNOCUOUS PROCESS IT SHOULD HAVE BEEN IN FIRST PLACE. ONCE IT ESTABLISHED THAT FIRST USE OF FORCE ONLY PRIMA FACIE EVIDENCE OF AGGRESSION, AND THEN ONLY IF IT IN CONTRAVENTION OF CHARTER, WE MAY WELL BE ABLE GAIN ACCEPTANCE OF AUSTRALIAN LANGUAGE SET FORTH PARA 3 GENEVA 2286, UNDER WHICH INTRODUCTION TO LIST OF ACTS WOULD BE AS FOLLOWS: QUOTE WITHOUT PREJUDICE TO THE DISCRETION OF THE SECURITY COUNCIL TO DETERMINE OTHER ACTS TO BE ACTS OF AGGRESSION, ANY OF THE FOLLOWING ACTS, IF IN VIOLATION OF THE CHARTER OF THE UNITED NATIONS, MAY CONSTITUTE AN ACT OF AGGRESSION, REGARDLESS OF A DECLARATION OF WAR:... UNQUOTE. THIS WOULD FULLY CONVERT " DEFINITION" INTO ILLUSTRATIVE LIST OF ACTS WHICH IF CARRIED OUT IN VIOLATION OF CHARTER, " MAY" CONSTITUTE AGGRESSION. THIS IS FAR CRY FROM ORIGINAL CONCEPT OF DEFINITION WHICH WE FOUND SO OBJECTIONABLE. WE BELIEVE IT WOULD BE VERY MUCH IN US INTEREST TO WRAP UP THIS EXERCISE IN THIS HARMLESS MANNER.

6. DELEGATION APOLOGIZES FOR NUMBER OF URGENT REQUESTS FOR GUIDANCE BUT WOULD VERY MUCH APPRECIATE DEPARTMENT'S REACTIONS
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 GENEVA 02308 161105 Z

TO SECOND GUYANESE PROPOSAL ASAP. BASSIN

CONFIDENTIAL
NMAFVVZCZ

*** Current Handling Restrictions *** n/a

*** Current Classification *** CONFIDENTIAL

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts:
Control Number: n/a
Copy: SINGLE
Draft Date: 16 MAY 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: thigpegh
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973GENEVA02308
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: RR
Errors: n/a
Film Number: n/a
From: GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730546/aaaajhdp.tel
Line Count: 111
Locator: TEXT ON-LINE
Office: ACTION L
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 73 STATE 92306, 73 GENEVA 2285
Review Action: RELEASED, APPROVED
Review Authority: thigpegh
Review Comment: n/a
Review Content Flags:
Review Date: 28 SEP 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <28-Sep-2001 by rowellE0>; APPROVED <26-Nov-2001 by thigpegh>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CORRECTED> gwr 980217
Subject: DEFINITION OF AGGRESSION COMMITTEE: PRIORITY AND INTENT
TAGS: PFOR, UN
To: L
SECSTATE WASHDC
USUN NEW YORK
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005